COURT NO. 6

HIGH COURT OF UTTARANCHAL, AT NAINITAL

WRIT PETITIO NO. 599 OF 2003 (M/S)

CIVIL SIDE

Sudhir Kumar Jain ..... PETITIONERS

Versus

Addl. District Judge, Dehradun & others ..... RESPONDENTS

Hon'ble Rajesh Tandon, J .

Heard Sri Pramod Bailwal, counsel for the petitioner at length.

The petitioner has filed the present writ petition under Article 227 of the Constitution of India challenging the orders passed on 8.4.2003 by the Civil Judge (Senior Division), Dehradun. On 8.4.2003 the Civil Judge has passed two orders. One order was for registering the suit and also transferring the same before the Civil Judge (Senior Division), Fast Track Court, Dehradun. The order registering the suit is a step towards the progress of the suit and is interlocutory in nature. No writ petition is maintainable against such order.

So far as the second part of the order dated 8.4.2003 is concerned, the order has been passed on the injunction application filed under Order 39 Rule 1 C.P.C. by granting interim injunction and also issuing direction for compliance of the provisions of Order 39 Rule 3 C.P.C. Since the order has been passed under the provision of Order 39 Rule 1 C.P.C. an appeal lies under Order 43 Rule 1 (r) C.P.C. Order 43 Rule 1(r) C.P.C. provides as under:

" an order under Rule 1, Rule 2, (Rule 2-A) Rule 4 or Rule 10 of Order XXXIX."

Since the latter part of the order as stated above is appealable as such the petitioner has alternative remedy of filling the appeal. The writ Petition is misconceived and is liable to be dismissed. No other point has been pressed.

The Writ petition is accordingly dismissed.

(Rajesh Tandon, J.)

7.7.2003
Dhyani